


भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II — खण्ड 2
PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 16] नई दिल्ली, शुक्रवार, मई 3, 2002/ वैशाख 13, 1924

No. 16] NEW DELHI, FRIDAY, MAY 3, 2002/ VAISAKHA 13, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 3rd May, 2002.

BILL No. 37 OF 2002

A Bill to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and Union territories and for matters connected therewith.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

1. This Act may be called the Delimitation Act, 2002.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “article” means an article of the Constitution ;

(b) “associate member” means a member nominated under section 5;

(c) “Commission” means the Delimitation Commission constituted under section 3 ;

(d) “Election Commission” means the Election Commission referred to in article 324;

(e) "member" means a member of the Commission and includes the Chairman; and

(f) "State" includes a Union territory having a Legislative Assembly but does not include the State of Jammu and Kashmir.

Constitution
of
Delimitation
Commission.

3. As soon as may be after the commencement of this Act, the Central Government shall constitute a Commission to be Called the Delimitation Commission which shall consist of three members as follows:—

(a) one member, who shall be a person who is or has been a Judge of the Supreme Court to be appointed by the Central Government who shall be the Chairperson of the Commission;

(b) the Chief Election Commissioner or an Election Commissioner nominated by the Chief Election Commissioner, *ex officio*;

Provided that after the nomination of an Election Commissioner as a member under this clause, no further nomination under this clause shall be made except to fill the casual vacancy of such member under section 6; and

(c) the State Election Commissioner of concerned State, *ex officio*.

Explanation.—For the purposes of clause (c), the State Election Commissioner of the concerned State, in respect of the duties of the Commission relating to that State, means the State Election Commissioner appointed by the Governor of that State under clause (1) of article 243K.

Duties of the
Commission.

4. (1) The readjustment made, on the basis of the census figures as ascertained at the census held in the year 1971 by the Delimitation Commission constituted under section 3 of the Delimitation Act, 1972, of the allocation of seats in the House of the People to the several States and the total number of seats in the Legislative Assembly of each State shall be deemed to be the readjustment made by the Commission for the purposes of this Act.

76 of 1972.

(2) Subject to the provisions of sub-section (1) and any other law for the time being in force, the Commission shall readjust the division of each State into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly on the basis of the census figures as ascertained at the census held in the year 1991:

Provided that where on such readjustment only one seat is allocated in the House of the People to a State, the whole of that State shall form one territorial constituency for the purpose of elections to the House of the People from that State.

Associate
members.

5. (1) The Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, ten persons five of whom shall be members of the House of the People representing that State and five shall be members of the Legislative Assembly of that State:

Provided that where the number of members of the House of the People representing any State is five or less, then, all such members shall be the associate members for that State and in the latter case the total number of associate members shall be less than ten by such number as by which the total number of members of the House of the People representing that State is less than five.

(2) The persons to be so associated from each State shall be nominated, in the case of the members of the House of the People, by the Speaker of that House, and in the case of members of a Legislative Assembly, by the Speaker of that Assembly, having due regard to the composition of the House or, as the case may be, of the Assembly.

(3) The first nominations to be made under sub-section (2)—

(a) shall be made by the Speakers of the several Legislative Assemblies within one month, and by the Speaker of the House of the People within two months, of the commencement of this Act; and

(b) shall be communicated to the Chief Election Commissioner, and where the nominations are made by the Speaker of a Legislative Assembly, also to the Speaker of the House of the People.

(4) None of the associate members shall have a right to vote or to sign any decision of the Commission.

(5) The Commission shall have power to call upon—

(a) the Registrar-General and Census Commissioner, India or his nominee; or

(b) the Surveyor General of India or his nominee; or

(c) any other officer of the Central Government or State Government; or

(d) any expert in geographical information system; or

(e) any other person,

whose expertise and knowledge are considered necessary by the Commission to provide assistance to it in addition to the assistance provided by the persons referred to in sub-section (1) and the officers and persons so called upon shall be duty bound to assist the Commission.

(6) The Secretary to the Election Commission shall be the *ex officio* Secretary of the Commission and shall discharge his functions with the assistance of the employees of the Election Commission under the supervision of the Chairman of the Commission.

6. If the office of the Chairman or of a member or of an associate member falls vacant owing to his death or resignation, it shall be filled as soon as may be practicable by the Central Government or the Speaker concerned under and in accordance with the provisions of section 3 or, as the case may be, of section 5.

Casual
vacancies

5 of 1908. 7. (1) The Commission shall determine its own procedure and shall, in the performance of its functions, have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

Procedure and
powers of the
Commission.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document; and

(c) requisitioning any public record from any court or office.

(2) The Commission shall have power to require any person to furnish any information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission may authorise any of its members to exercise any of the powers conferred on it by clauses (a) to (c) of sub-section (1) and sub-section (2), and any order made or act done in exercise of any of those powers by the member authorised by the Commission in that behalf shall be deemed to be the order or act, as the case may be, of the Commission.

(4) If there is a difference of opinion among the members, the opinion of the majority shall prevail, and acts and orders of the Commission shall be expressed in terms of the views of the majority.

(5) The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of

a vacancy in the Commission or in that or any other group of associate members; and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

(6) The Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

Readjustment
of number of
seats.

8. The Commission shall, having regard to the provisions of articles 81, 170, 330 and 332, and also, in relation to the Union territories, except National Capital Territory of Delhi, sections 3 and 39 of the Government of Union Territories Act, 1963 and in relation to the National Capital Territory of Delhi sub-clause (b) of clause (2) of article 239AA, by order, determine,—

20 of 1963.

(a) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the number of seats in the House of the People to be allocated to each State and determine on the basis of the census figures as ascertained at the census held in the year 1991 the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State; and

(b) on the basis of the census figures as ascertained at the census held in the year 1971 and subject to the provisions of section 4, the total number of seats to be assigned to the Legislative Assembly of each State and determine on the basis of the census figures as ascertained at the census held in the year 1991 the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State :

Provided that the total number of seats assigned to the Legislative Assembly of any State under clause (b) shall be an integral multiple of the number of seats in the House of the People allocated to that State under clause (a).

Delimitation
of
constituencies.

9. (1) The Commission shall, in the manner herein provided, then, distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State as readjusted on the basis of 1971 census to single-member territorial constituencies and delimit them on the basis of the census figures as ascertained, at the census held in the year 1991, having regard to the provisions of the Constitution, the provisions of the Act specified in section 8 and the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(b) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large; and

(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

(2) The Commission shall—

(a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Gazette of India and in the Official Gazettes of all the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals shall be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter by one or more orders determine—

(i) the delimitation of parliamentary constituencies; and

(ii) the delimitation of assembly constituencies,

of each State.

10. (1) The Commission shall cause each of its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned and simultaneously cause such orders to be published at least in two vernacular newspapers and publicize on radio, television and other possible media available to the public and after such publication in the Official Gazettes of the States concerned, every District Election Officer shall cause to be affixed, the Gazette version of such orders relating to the area under his jurisdiction, on a conspicuous part of his office for public notice.

Publication of orders and their date of operation.

(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in any other law for the time being in force or any order or notification issued under such law in so far as such representation and delimitation are inconsistent with the provisions of this Act.

(5) Nothing in this section shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication in the Gazette of India of the final order or orders of the Commission relating to the delimitation of parliamentary constituencies or, as the case may be, of the assembly constituencies of that State and any bye-election to fill any vacancy in such House or in any such Assembly shall be held on the basis of the provisions of the laws and orders superseded by sub-section (4) as if the said provisions had not been superseded.

(6) The Commission shall endeavor to complete and publish each of its orders referred to in sub-section (1) in the manner provided in that sub-section, within two years of the constitution of the Commission under section 3.

11. (1) The Election Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in any of the orders made by the Commission under section 9 or any error arising therein from an inadvertent slip or omission; and

(b) where the boundaries or name of any district or any territorial division mentioned in any of the said orders are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the orders up-to-date, so, however, that the boundaries or areas or extent of any constituency shall not be changed by any such notification.

Power to maintain delimitation orders up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

Repeal.

12. The Delimitation Act, 1972 is hereby repealed.

76 of 1972.

STATEMENT OF OBJECTS AND REASONS

Articles 82 and 170 of the Constitution, as amended by the Constitution (Eighty-fourth Amendment) Act, 2001 provide for readjustment and the division of each State into territorial constituencies (Parliamentary constituencies and Assembly constituencies) on the basis of the census figures for the year 1991 by such authority and in such manner as Parliament may, by law, determine. Further, articles 330 and 332 of the Constitution, as amended by the said Act provide for refixing the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the House of the People and Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 1991.

2. The present delimitation of Parliamentary and Assembly constituencies is based on the population figures for the 1971 census. The uneven growth of population in different constituencies in different parts of the country as well as within the same State as also continuous migration of people/electorate from one place to other especially from rural areas to urban areas have resulted in strikingly differing sizes of electoral constituencies even within the same State. The object of the Bill is to set up a Delimitation Commission for the purpose of effecting delimitation on the basis of the population as ascertained at the census of 1991 so as to correct the aforesaid distortion in the sizes of electoral constituencies. The proposed Delimitation Commission would also refix the number of seats for the Scheduled Castes and the Scheduled Tribes on the basis of the 1991 census, without affecting total number of seats based on the census of 1971.

3. The Bill seeks to lay down certain guidelines as to the manner in which such delimitation will be undertaken. In the Bill, the new Delimitation Commission has been given the task of carrying out delimitation of Parliamentary and Assembly constituencies. It has been specifically provided that the Delimitation Commission shall endeavour to complete the work within a period of two years. The proposed delimitation will apply to every general election to the House of the People or to a State Legislative Assembly held after the final orders of the Commission are published and to every bye-election arising from such general election. The other provisions of the Bill are generally on the pattern of the provisions contained in the Delimitation Act, 1972.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 23rd April, 2002.

ARUN JAITLEY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the setting up of a Delimitation Commission which is to consist of three members of whom one shall be appointed from amongst persons who are or have been Judges of the Supreme Court and other members being the Chief Election Commissioner or an Election Commissioner nominated by him and the State Election Commissioner concerned, both *ex officio*. The Commission shall also associate with itself for the purpose of assisting it in its duties in respect of each State, ten persons, five of whom shall be members of the House of the People representing that State nominated by the Speaker of that House and five shall be members of the Legislative Assembly of that State nominated by the Speaker of that Assembly.

2. It is expected that the Commission shall complete its work within a period of two years from its constitution. The expenditure on account of salary and allowances of the Chairman and other expenses in connection with the working of the Commission are required to be borne from the Consolidated Fund of India. The expenditure on the constitution of the Commission and other expenses, which may have to be borne by the Election Commission in its capacity as Secretariat for the proposed Commission, is expected to be approximately Rs. 75 lakhs per annum. The estimate is necessarily tentative in nature.

3. The Bill does not involve any other expenditure of a recurring or non-recurring nature.

G. C. MALHOTRA,
Secretary-General.